

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA

LELAND E. WEGENER, JR.,

Petitioner,

v.

Civil Action No. 2:06cv26

DOMINIC A. GUTIERREZ,

Respondent.

**ORDER**

It will be recalled that on August 15, 2006, Magistrate Judge Kaull filed his Report and Recommendation, wherein the Petitioner was directed, in accordance with 28 U.S.C. § 636(b)(1), to file with the Clerk of Court any written objections within ten (10) days after being served with a copy of the Report and Recommendation. Petitioner filed his objections on August 21, 2006.

Upon examination of the report from the Magistrate Judge, it appears to the Court that the issues raised by the Petitioner in his Petition, filed pursuant to 28 U.S.C. §2241, wherein Petitioner challenges the results of a disciplinary hearing and his removal from the Bureau of Prisons ("BOP") Residential Drug Abuse Program, were thoroughly considered by Magistrate Judge Kaull in his Report and Recommendation. Upon review of the Petitioner's objections, the Court finds that the Petitioner has not raised any issues that were not already thoroughly considered and addressed by the Magistrate Judge in his Report and Recommendation. Moreover, the Court, upon an independent de novo consideration of all matters now before it, is of the opinion that the Report and Recommendation accurately reflects the law applicable to the facts and circumstances before the Court in this action. Therefore, it is

**ORDERED** that Magistrate Judge Kaull's Report and Recommendation be, and the

same hereby is, accepted in whole and that this civil action be disposed of in accordance with the recommendation of the Magistrate Judge. Accordingly, it is

**ORDERED** that the Petitioner's Petition for Writ for Habeas Corpus shall be, and the same hereby is, **DENIED** and **DISMISSED WITH PREJUDICE**. It is further **ORDERED** that the above-styled action shall be **STRICKEN** from the docket of this Court. It is further

**ORDERED** that the Clerk shall enter judgment for the Respondent. It is further **ORDERED** that, if Petitioner should desire to appeal the decision of this Court, written notice of appeal must be received by the Clerk of this Court within thirty (30) days from the date of the entry of the Judgment Order, pursuant to Rule 4 of the Federal Rules of Appellate Procedure. The \$5.00 filing fee for the notice of appeal and the \$450.00 docketing fee should also be submitted with the notice of appeal. In the alternative, at the time the notice of appeal is submitted, Petitioner may, in accordance with the provisions of Rule 24(a) of the Federal Rules of Appellate Procedure, seek leave to proceed in forma pauperis from the United States Court of Appeals for the Fourth Circuit.

**ENTER:** May 30<sup>th</sup>, 2007

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**/s/ Robert E. Maxwell**

United States District Judge